



Hybrid or In-Person Meetings

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Opinion Committee



Let's Talk: Presentation Topics

- ▶ Open Meetings Act rules to follow as meetings transition from virtual to hybrid to in-person settings
- ▶ Steps governmental bodies can take to promote safety
- ▶ Legal considerations for when COVID-19 Disaster Proclamation or the suspension of certain Open Meetings Act rules are no longer in effect



First Things First – Check What is Current

- ▶ Physical Aspects - Gubernatorial executive orders and local orders regarding occupancy, facial coverings, other public health mandates

- ▶ Legal Aspects
 - Governor's COVID-19 Disaster Proclamation
 - Governor's temporary suspension of some Open Meetings Act provisions

- ▶ Where to Look
 - Legislative Reference Library website, www.lrl.texas.gov
 - Local government website



Legislative Reference Library website

- ▶ www.lrl.texas.gov
- ▶ Governor Statements on COVID-19

The screenshot shows the website for the Legislative Reference Library of Texas. The main navigation bar includes: Current Issues, Legislation, Legislators & Leaders, Sessions, Committees, Collections, and General Information. On the left, there is a 'Quick Links' section with various utility links. The main content area features a header for the '86th Legislature, Regular Session: January 8, 2019 – May 27, 2019' with a red circle around the link 'Governor Statements on COVID-19'. Below this, a notice states that the library is closed to visitors due to COVID-19. A 'Points of Interest' section contains four featured items: 'Dates of Interest for the 87th Regular' (Oct 2, 2020), 'Current Articles & Research Resources' (Oct 1, 2020), '2020 General Election: Voting' (Sept 29, 2020), and 'House Committee Resources' (Sept 28, 2020). On the right, there is a 'Texas Links' section with various state government resources and a 'Contact Us' section at the bottom.



Governor Statements on COVID-19

Legislative Reference Library
of Texas
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Current Issues ▾ Legislation ▾ Legislators & Leaders ▾ Sessions ▾ Committees ▾ Collections ▾ General Information ▾

Legislators & Leaders

Texas Legislators: Past & Present

- Women members
- Party statistics
- Freshmen

Governors of Texas

- Browse Governors
- Search documents

Lt. Governors and Speakers

- Browse Lt. Governors
- Browse Speakers
- Search documents
- Speaker elections
- Speaker archival & oral

[LRL Home](#) - [Legislators and Leaders](#) - Governor documents search

[Search again](#)

189 result(s) [Author= Keyword= COVID]

Date	Session	Title	Author	Type
10/01/2020	86th R.S.	Suspending certain statutes concerning the November 3, 2020 elections	Greg Abbott	General proclamation
09/25/2020	86th R.S.	Governor Abbott announces over \$171 million in CARES [Coronavirus Aid, Relief, and Economic Security] Act funding for rental assistance, Texas Eviction Diversion Program	Greg Abbott	Other
09/17/2020	86th R.S.	Governor Abbott expands capacity for certain services in Texas, announces guidance for nursing home, long-term care visitations (summary of Executive Orders GA-30 and GA-31)	Greg Abbott	Other
09/17/2020	86th R.S.	Executive Order GA-31 Relating to hospital capacity during the COVID-19 disaster	Greg Abbott	Executive order
09/17/2020	86th R.S.	Executive Order GA-30 Relating to the continued response to the COVID-19 disaster as Texas reopens	Greg Abbott	Executive order
09/07/2020	86th R.S.	Renewing the declaration stating that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in Texas	Greg Abbott	General proclamation
08/21/2020	86th R.S.	Governor Abbott statement on federal approval for Lost Wages Assistance funds	Greg Abbott	Other
08/20/2020	86th R.S.	Governor Abbott announces procurement of over 1 million devices, WIFI hotspots through Operation Connectivity	Greg Abbott	Other



About Those Suspended Open Meetings Act Provisions...

- ▶ Suspensions in effect until terminated by the Office of the Governor, or until March 13, 2020 disaster declaration is lifted or expires
- ▶ Provisions temporarily suspended to extent necessary to allow telephonic or videoconferencing meetings **and avoid congregate setting in physical locations**
- ▶ If officials not holding telephonic or videoconferencing meeting, **all open-meeting requirements apply**



Modified Attendance = Modified Rules

- ▶ Virtual > Hybrid > In-Person

- ▶ If some percentage of meeting attendance relies on telephonic or videoconferencing technology to promote safety due to COVID-19 Disaster, Governor's modified Open Meetings Act rules apply

- ▶ Examples of various configurations
 - 25%, 50%, 75%

 - 100%



In Hybrid Mode, Fairness is Key

- ▶ Extra effort required when participants not similarly situated

- ▶ Examples
 - Time limits for public comment period
 - Mode of address for public comment period
 - Audio quality with facial coverings
 - Same agenda packets made available

- ▶ “Even as the State of Texas takes precautionary measures to contain the spread of COVID-19, we also have a responsibility to maintain government transparency.” – Governor Abbott



Promoting Safety

- ▶ Open Meetings Act addresses right of governmental body to “adopt reasonable rules” in connection with public’s right to address the governmental body and record its meetings – **Tex. Gov’t Code §§ 551.007(c), .023(b)**
- ▶ Governor has urged “state and local officials to do their part to mitigate the spread of COVID-19”
- ▶ Executive orders and local orders may require certain practices



Practical Suggestions to Promote Safety

- ▶ Performing temperature checks prior to admission
- ▶ Providing hand sanitizer at various locations
- ▶ Controlling ingress/egress
- ▶ Requiring social distancing and installing physical reminders
- ▶ Requiring facial coverings
- ▶ Sanitizing microphones between speakers
- ▶ Having governmental body model safe behavior



One Step Forward, Two Steps Back

- ▶ Moving between virtual and hybrid meeting formats may fluctuate depending on local health conditions
- ▶ Key to maintaining access for the public is keeping them informed and providing avenues for participation
- ▶ Consider including hyperlink in electronic meetings notices to continuously-updated webpage containing latest information regarding meeting capacity



Lifting of COVID-19 Disaster Declaration or Modified OMA Rules – Now What?

- ▶ Governor's Disaster Declaration or temporary Open Meetings Act rule suspensions will be lifted at some point
- ▶ Going forward, governmental bodies would follow all regular Open Meetings Act provisions
- ▶ Meetings already posted but not yet held could be negatively impacted because of differences in posting requirements



Posting Requirement Differences - Examples

- ▶ Under Governor's modified Open Meetings Act rules:
 - Governmental bodies may dispense with physical posting requirements
 - Location of meeting is the remote access connection information
 - Videoconferencing meetings may dispense with physical location requirements

- ▶ Under normal Open Meetings Act rules:
 - Law requires physical posting
 - Location of meeting is a physical setting
 - Videoconferencing meetings must include a physical locations



Prevent Mid-Air Madness

- ▶ Pay attention to COVID-19 disaster proclamation expiration date and plan ahead

- ▶ If meeting is scheduled to take place beyond the known disaster declaration period, consider notice modifications:
 - Including contingency plans for physical location
 - If applicable, including any information a regular videoconferencing meeting notice would have required
 - Complying with physical posting requirements

- ▶ If too many uncertainties to post all-purpose notice, meeting may need to be rescheduled



Bottom Line – Maintain Best Practices

- ▶ Safety first
- ▶ COVID-19 Disaster does not change governmental body's responsibility to maintain government transparency
- ▶ Questions?
 - TOMA Response Hotline (888) 672-6787
 - Email at TOMA@oag.texas.gov